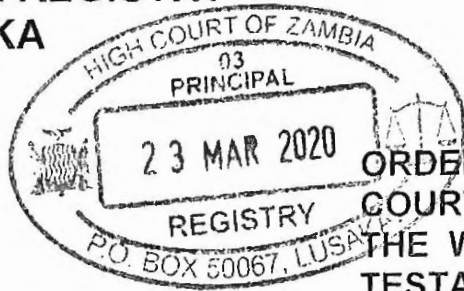


**IN THE HIGH COURT FOR ZAMBIA  
AT THE PRINCIPAL REGISTRY  
HOLDEN AT LUSAKA  
(Civil Jurisdiction)**

**2016/HP/2432**



IN THE MATTER OF:

**ORDER 30 RULE 12(g) OF THE HIGH COURT RULES AND SECTION 51(2) OF THE WILLS AND ADMINISTRATION OF TESTATE ESTATES ACT CHAPTER 60 OF THE LAWS OF ZAMBIA**

IN THE MATTER OF:

**THE WILL AND ESTATE OF THE DECEASED DAVID LASTONE TEMBO**

**BETWEEN :**

KAKO TEMBO (suing in her capacity as executrix of the estate of the late David Lastone Tembo)

**1<sup>st</sup> APPLICANT**

MTUKUZI-TUKUZA TEMBO

**2<sup>nd</sup> APPLICANT**

VUNDUMUKU TEMBO

**3<sup>rd</sup> APPLICANT**

**AND**

TAMINA NICOLAI (sued in her capacity as executrix of the estate of the late David Lastone Tembo)

**1<sup>st</sup> RESPONDENT**

LINDA TEMBO (sued in her capacity as executrix of the estate of the late David Lastone Tembo)

**2<sup>nd</sup> RESPONDENT**

**Before Honourable Mrs. Justice M. Mapani-Kawimbe in Chambers on the 23<sup>rd</sup> day of March 2020.**

<i>For the Plaintiffs</i>	:	<i>Mr. S. Musonda, Messrs AM Wood &amp; Company (incorporating Abha Patel &amp; Advocates)</i>
<i>For the 1<sup>st</sup> Respondent</i>	:	<i>No Appearance</i>
<i>For the 2<sup>nd</sup> Respondent</i>	:	<i>Ms. S. Patel, Messrs AB &amp; David</i>

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# J U D G M E N T

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## Legislation Referred To:

1. *Wills and Testate Estates Act Chapter 60*

## Other Works Referred To:

1. *Halsbury's Laws of England, 5<sup>th</sup> Edition, Volume 103*
2. *Williams on Wills edited by Francis Barlow, Christopher Sherrin Richard Wallington, Sussanah Meadway and Michael Waterworth, Volume 1, 9<sup>th</sup> Edition 2008*

## 1. Introduction

- 1.1 At the heart of this dispute is the will of the deceased, David Lastone Tembo, who died on 23<sup>rd</sup> May 2015. The 1<sup>st</sup> applicant, Kako Tembo and the 1<sup>st</sup> and 2<sup>nd</sup> respondents, Tamina Nicolai and Linda Tembo, were appointed by the deceased as the executrices of his will. The deceased left behind a sizeable estate with assets ranging from real property, motor vehicles and money in various bank accounts.
- 1.2 The natural expectation of the beneficiaries was that the estate would be timely distributed. However, on the contrary, the estate became engulfed in a dispute amongst the executrices and some beneficiaries. Its affairs have not been wound up with the respondents being blamed for the delay. The issued raised by this suit is *whether the court should*

*intervene in the dispute and remove the respondents from executing the deceased's will so that the estate can be distributed?*

## **2. Orders Sought**

2.1 On 10<sup>th</sup> January 2017, the applicants filed originating summons under Order 30 Rule 12(g) of the High Court Rules and section 51(2) of the Wills and Administration of Testate Estate Act seeking the following orders:

- 1) *An order for the removal and substitution of the 1<sup>st</sup> and 2<sup>nd</sup> defendants as executors of the estate of the deceased with Mtukuzi-Tukuza Tembo the 2<sup>nd</sup> plaintiff.*
- 2) *An order for the administration and winding-up of the estate in accordance with the provisions of the Will dated the 5<sup>th</sup> day of May 2010.*
- 3) *An order for the sale of subdivision 9 of farm no. 283a Lusaka West and that the proceeds of the sale be distributed amongst the beneficiaries in accordance with the Will.*
- 4) *An order for the sale of House no. 19 along John Hunt Road Livingstone and that the proceeds of the sale be distributed amongst the beneficiaries in accordance with the Will.*
- 5) *In the alternative to paragraphs 3 and 4 above, an order for:*
  - (i) *The purchase of the plaintiffs' interest in the aforesaid properties within a period not exceeding 40 days or within any reasonable period that this Court may deem fit or;*
  - (ii) *The appointment of an independent Real Property Surveyor to evaluate the properties and make a determination as to what portions of the properties including inter alia the developed and undeveloped sites can be equally subdivided amongst the beneficiaries or sold off where it is not practicable to make a subdivision.*
- 6) *Interpretation of clause 19 of the Will dated the 5<sup>th</sup> day of May 2010.*
- 7) *Costs*
- 8) *Further or other relief that the Court may deem fit."*

### 3. Affidavit evidence

3.1 The applicants **Kako Tembo** and **Mtukuzi-Tukuza Tembo** filed supporting affidavits into Court on the same day as the summons. They deposed that David Lastone Tembo their father (deceased) died on 23<sup>rd</sup> May 2015 at West End Hospital in Harare Zimbabwe. The 1<sup>st</sup> applicant and respondents were named as the executrices of his will (**exhibit KT1**) and obtained probate from the High court on 7<sup>th</sup> June 2013.

3.2 They deposed that the beneficiaries of the will were named as:

- i) Tamina Tembo
- ii) Kako Tembo
- iii) Mtukuzi-Tukuza Tembo
- iv) Mbuto Tembo
- v) Kwasu Tembo
- vi) Vundumuku Tembo
- vii) Chitinthi Tembo
- viii) Lucy Tembo
- ix) Kalipeni Nkhuwa
- x) Linda Tembo

They were bequeathed the following assets:

- i) House no. 1589 which is Harare Zimbabwe and all household effects.

- ii) Subdivision 9 of farm no. 283a in Lusaka West and all developments thereon.
- iii) House no. 19 along John Hunt Way in Livingstone.
- iv) All motor vehicles in the deceased's name at the time of his death.
- v) Money in various bank accounts.
- vi) Ten thousand United States Dollars (\$10,000.00)

3.3 The deponents averred that the value of the estate was ZMW 6,000,000.00 at the time the suit was filed and there were no liabilities attached. In addition, the estate received a monthly income of ZMW6,000.00 and all documents were in the custody of the 2<sup>nd</sup> respondent.

3.4 The deponent averred that after obtaining probate the respondents failed to administer the estate in concurrence with the 1<sup>st</sup> applicant as required by the will shown in the exhibit marked "MTT1", a copy of the one of the requests sent to the respondents via e-mail and the exhibit marked "KT3", copies of the reminders sent to the respondents. In consequence, none of the beneficiaries received their share of the assets and the value of the estate had been diminished.

3.5 The applicants asserted that subdivision 9 of farm no. 283a Lusaka West which had a clinic, pharmacy, piggery and other buildings had begun to depreciate. The clinic, piggery and the pharmacy were non-

functional from the time the deceased died and the equipment risked becoming obsolete. The pigs had died and none of the beneficiaries were interested in running the piggery.

3.6 The farm only generated ZMW 6,000 per month which catered for the utility bills and farm workers' wages. House no. 19 at John Hunt Way Livingstone was secured after a court judgment and the certificate of title had not been obtained.

3.7 In addition, moveable assets such as the motor vehicles had depreciated. According to the deponents, the beneficiaries could only benefit from the assets of the estate if they were sold and proceeds distributed in accordance with the will. The deponents went on to assert that the respondents had not showed any intentions of administering the estate for over three years. They were both domiciled outside the country and had little or no knowledge about the state of the estate.

3.8 As such, they failed to honour the executor's bond and oath by promptly administering the estate. The deponents urged the Court to remove the respondents from office and to substitute them with the 2<sup>nd</sup> applicant who was willing to act as the personal representative of the estate.

3.9 The 1<sup>st</sup> respondent did not enter appearance.

3.10 In response, the second respondent **Linda Tembo**, filed an affidavit in opposition into Court on 29<sup>th</sup> June 2017. She conceded that the deceased had seven children and desired his estate to reside in a trust in which all the beneficiaries would hold equal shares.

3.11 Mrs. Tembo averred that the estate comprised of subdivision 9 of farm no. 283a Lusaka West, house no. 19 John Hunt Way Livingstone, motor vehicles, bank accounts in Zambia and Geneva with USD 15,000 and other property. She further stated that the deceased instructed that the trust would meet the educational requirements and maintenance of the minor children; and Messrs AM Wood & Company was retained to draft the trust deed.

3.12 Mrs. Tembo also averred that the 1<sup>st</sup> applicant withdrew USD 1,636.57 from the deceased's Stanbic Bank account to meet the expenses for the trust and paid the lawyers ZMW 2,000. She did not account for the rest of the money as shown in the exhibits collectively marked "LT2", copied of the electronic mail and receipts. The deponent contended that she was actively involved in the administration of the estate even though she was based in Zimbabwe.

3.13 She participated in drafting the trust deed as shown in the exhibits collectively marked "LT3", copies of electronic mail on the creation of the



trust deed. The trust was not registered for reasons not communicated by the 1<sup>st</sup> applicant.

3.14 In addition, she and the 1<sup>st</sup> applicant conducted a full inventory of the estate and attended to litigation of house no. 19 John Hunt Way Livingstone. She also repatriated the deceased's body and tombstone from Harare to Lusaka and paid for transport.

3.15 The deponent asserted that the 1<sup>st</sup> applicant excluded her from communication and they never met as executrices to discuss the administration of the estate despite her overtures. She was however aware of the state of the estate through her contact with Lucy Tembo and Kalipena Nkhuwa who resided at subdivision no. 9 of farm no. 283a Lusaka West.

3.16 She denied that the respondents were responsible for the delay in administering the estate as the 1<sup>st</sup> applicant admitted her shortcomings according to the exhibit marked "KT3".

3.17 The deponent averred that the 1<sup>st</sup> applicant was interfering in the administration of the estate by involving her brothers and sisters who were merely beneficiaries. She dismissed the suggestion to appoint an additional executrix because the deceased had named the executrices



in his will according to his wishes. Further, the matter had not been subjected to family consultation.

3.18 The deponent conceded that the administration of the estate was of the essence but contended that there was no provision in the will, which provided for the sale of immovable property nor consensus amongst the beneficiaries. In fact, some of the beneficiaries wanted to use subdivision 9 of farm no. 283a Lusaka West as shown in the exhibit marked "LT4", a copy of a proposal from Chitinthi Tembo.

3.19 In reply, the 1<sup>st</sup> applicant filed an affidavit in reply into Court on 31<sup>st</sup> May 2019. She stated that the trust had been overtaken by events as the beneficiaries were all adults. Further, the sum of USD 1,636.57 was fully accounted for and was used to cover the expenses of the deceased's memorial held on 23<sup>rd</sup> May 2015 as shown in the exhibit marked "KT1", a copy of some of the receipts as follows:

- (i) snacks for memorial paid to Le Bistro K4,500
- (ii) flowers – K1,270
- (iii) marquee – K1,500
- (iv) newspaper advert – K734
- (v) labour to offload tombstone K250
- (vi) transport from intercity to Lusaka West – K400

- (vii) memorial program – K700
- (viii) disposable cups –K168
- (ix) counter service - K199
- (x) deposit AM - K2,000

Total K11,721”

3.20 She asserted that the 2<sup>nd</sup> respondent never requested her to render an account of the money and apart from the latter's input on the trust deed, she never returned to Zambia after the memorial to administer the estate. The 1<sup>st</sup> applicant contended that the trust failed because the parties were too consumed with details and in the meantime, the youngest child attained the age of majority.

3.21 The deponent asked the Court to note that clause 14.4 of the will enabled beneficiaries to alienate their shares in the property provided that the other beneficiaries were given the right of first refusal. In concluding, she urged the Court to interpret clause 19 of the will.

#### **4. Skeleton arguments**

4.1 Learned Counsel for the applicants filed skeleton arguments into Court on 12<sup>th</sup> June 2019 where he submitted that it was in the best interests of the beneficiaries of the estate to receive their gifts from the estate. He argued that the respondents had no interest in office and the fact that

they lived outside the country compounded the situation. Counsel further argued that after the 1<sup>st</sup> respondent was granted probate, she never participated in the affairs of the estate and could therefore be removed and substituted with the 2<sup>nd</sup> applicant.

4.2 He fortified his position by citing section 51(2) of the Wills and Administration of Testate Act on removal of an executrix from office as follows:

**“Where it is satisfied that the due and proper administration of the estate and the interests of the persons beneficially entitled to it so require, the Court may suspend or remove an executor or administrator and provide for the succession of another person to the office of that executor or administrator who may cease to hold office, and for the vesting in that person of any property belonging to the estate.”**

4.3 Counsel went on to cite the learned authors of **Halsbury’s Laws of England, 5<sup>th</sup> Edition, Volume 103** who state at paragraph 1165 that:

**“1165. Power of the High Court to substitute or remove personal . Where an application relating to the deceased person is made to the High Court by or on behalf of a representative of the deceased or a beneficiary of the estate, the Court may in its discretion:**

- (1) Appoint a person (a ‘substituted personal representative’) to act as personal representative of the existing personal representative or representatives or any of them; or**
- (2) If there are two or more existing personal representatives of the deceased, terminate the appointment of one or more, but not all, of those persons.**

**Where the Court appoints a person to act as a substituted personal representative of a deceased person, then if that person is appointed to act with an executor or executors, the appointment constitutes him executor as from the date of the appointment, except for the purpose of including him in any chain of representation; and in any other case, the appointment constitutes that person administrator as from the date of appointment.”**

4.4 Counsel next submitted that the two key considerations that a Court was to take into account when removing an executrix were:

- i. whether an executrix was performing her duty under the will and;
- ii. whether or not it was in the best interest of the beneficiaries under the will.

4.5 Counsel went on to argue that the respondents' failure was obvious and since the administration of the will had delayed, it was in the best interests of the beneficiaries to remove them from office. Regarding clauses 5 and 14 of the will, counsel averred that the beneficiaries were free to sale their shares of the real property and implored the Court to make an order.

4.6 On clause 19, Counsel submitted that at the time the deceased died, there were no minor children of the estates as Chitinhi Tembo, the youngest child, was above eighteen (18) years and the benefits reverted to the residuary estate. He called in aid the learned author of **Williams on Wills, Volume 1, 9<sup>th</sup> Edition** who in interpreting the contents of a will says as follows:

**"49.1 General principle. The first and great rule to which all others must bend is that effect must be given to the intention of the testator, but the intention here in question is not the intention in the mind of the testator at the time he made his Will, but that declared and apparent in his will. The application of the rule resolves itself into two questions of construction: first what is the intention of the testator disclosed by the will; and secondly, how can effect be given to that intention."**

At paragraph 49.2, counsel cited the learned author thus:

**"Ascertaining the intention of the testator. The Court of construction must ascertain the language of the will, read the words used and ascertain the intention of the testator from them. The Courts duty is not to ascertain what the actual mental intentions were. The only question for the Court of construction is what is the meaning of the words used, and the expressed intention in all cases is considered to be actual intention; the Court cannot give effect to any intention which is not expressed or employed in the will. Though this principle is not in any way questioned, it is still possible for judges to disagree upon what intention the words show."**

4.7 He concluded by reiterating his earlier prayer to Court to grant the applicants the reliefs sought against the respondents.

4.8 In response, Learned Counsel for the 2<sup>nd</sup> respondent filed skeleton arguments into Court on 21<sup>st</sup> June 2019 and also cited section 51(2) of the Wills and Administration of Testate Estates Act on the removal of an executrix from office. Counsel argued that the 2<sup>nd</sup> respondent was actively involved in the estate and had been in touch with the 1<sup>st</sup> applicant. She spent money on the estate and met some of the deceased's funeral expenses. Counsel averred that the 2<sup>nd</sup> respondent constantly liaised with Lucy Tembo and Kalipena Nkhuwa who lived at subdivision 9 of farm no. 283a Lusaka West on the status of the estate. Thus, her physical presence was a qualification to remain in office.

4.10 Counsel contended that the reliefs sought by the applicants were mostly contrary to the will and in terms of clause 14.1. She argued that while the will allowed beneficiaries to alienate their shares in the properties,

immovable property was not included in that clause and the other beneficiaries were against the sale. However, if the applicants wanted to sell their shares in the immovable property, the other beneficiaries were entitled to reasonable opportunity to buy them off.

4.11 Counsel submitted that since there were no minor children, the 2<sup>nd</sup> respondent was the only person entitled to the United Nations Joint Staff Pension Fund (UNJSPF) (<https://www.unjspf.org/regulations-rules-of-the-unjspf/>) as follows:

**“The United Nations Joint Staff Pension Fund is a fund established by the General Assembly of the United Nations to provide retirement, death, disability and related benefits for the staff of the United Nations and the other organisations admitted to membership in the Fund.”**

Counsel further referred the Court to article 36 of the Regulations and rules of the fund, which *inter alia* state:

- “(a) A child’s benefit shall subject to (b) and (c) below, be payable for each child of a participant who is entitled to a retirement, early retirement or disability benefit or who has died in service, while the child remains under the age of 21.**
- (b) A benefit shall be payable for a child who is over the age of 21 if the child is found by the Board to have been incapacitated by illness or injury for substantial gainful employment:**
  - (i) On reaching the age of 21, if immediately prior thereto a child’s benefit was payable; or**
  - (ii) At the time of the death in service or entitlement to a benefit of the participant.**
- (c) A child’s benefit shall, notwithstanding (a) above, not become payable, if the participant has chosen an early retirement benefit, until the participant dies or reached the normal retirement age, except to a child under the age of 21 found by the Board to be disabled.”**

4.12 In concluding, counsel prayed to Court to dismiss the applicant’s case.



4.13 Counsel for the applicants filed skeleton arguments in reply into Court on 9<sup>th</sup> July 2019. He maintained that the respondents were not involved in the administration of the will inspite of the 1<sup>st</sup> applicant's efforts. It mattered less that the 2<sup>nd</sup> respondent was constantly in touch with Lucy Tembo and Kalipena Nkhuwa because the office of executrix required the actual engagement of the respondents with the estate. He concluded by reiterating his earlier prayer to Court.

5. Hearing

5.1 The matter came up for hearing on 11<sup>th</sup> July 2019 and learned counsels for the parties relied on their respective affidavits and skeleton arguments filed herein.

6. Determination

6.1 Having considered the application, affidavits filed, the written submissions made and the authorities cited by counsel, it is indisputable that the source of this dispute rests on the will of David Lastone Tembo who died on 23<sup>rd</sup> May 2015. The deceased appointed Kako Tembo, Tamina Nicolai and Linda Tembo as executrices of his will. He left a sizeable estate comprising real property, motor vehicles and money in various bank accounts.



- 6.2 The beneficiaries naturally expected that the estate would be timely distributed but some of them and the executrices became engulfed in dispute and the affairs of the estate have not been wound up. Arising from the facts, the issue for determination is **whether the Court should intervene in the dispute and remove the respondents from executing the deceased's will so that the estate can be distributed?**
- 6.3 Before I delve into the substantive issue, my observation is that this application would not really have been necessary if the executrices co-existed peacefully and mutually respected one another. Also the apparent bad blood between the applicants and the respondents though not unexpected given the circumstances, may have been avoided if there was good communication between the parties on the administration of the estate. Having said that, what is before this Court in this application is substantially a prayer to remove the respondents from the administration of the estate and an order to sale the estate property or divide the assets.
- 6.4 In support of their case, the applicants contended that the respondents failed to perform their duties as executrices of their deceased's father's will. They also argued that their actions were likely to harm the estate because it was not properly accounted for and some of the assets had begun to diminish in value. In particular, the 1<sup>st</sup> respondent was not in

touch with the beneficiaries, while the 2<sup>nd</sup> respondent lived in Zimbabwe and had not been in Zambia for a while. According to the applicants, the only appropriate remedy was to remove the respondents from office and to appoint the 2<sup>nd</sup> applicant who is willing to act as the personal representative of the deceased.

6.5 As I earlier indicated, the 1<sup>st</sup> respondent never entered appearance and one cannot therefore, help to assume that she has lost interest in the affairs of the estate. On the other hand, the 2<sup>nd</sup> respondent argued that she was actively engaged with the estate through information given by Lucy Tembo and Kalipena Nkhuwa who reside at subdivision no. 9 of farm no 283a Lusaka West. She participated in the drafting of the trust deed of the estate although it was not registered. Further, she bore some of the deceased's burial expenses. The fact that she lived in Zimbabwe and was not physically present in Zambia was insufficient reason to remove her as executrix of the will because the deceased desired her to be in office.

6.6 After considering the rival positions, I will begin by setting out section 51(2) of the Wills and Testate Estates Act, which empowers a Court to remove an executor from office as follows:

(3) Where it is satisfied that the due and proper administration of the estate and the interests of the persons beneficially entitled to it so require, the court may suspend or remove an executor or administrator and provide for the succession of another person to the office of that executor or administrator who may cease to hold office, and for the vesting in that person of any property belonging to the estate.

- 6.7 It is trite law that in the administration of estate, an executor/executrix is assumed by the law to hold a fiduciary in position to the estate of a deceased person. In other words, an executor/executrix can best be described as the personal representative of the deceased because he/she assumes the life of the deceased. Thus, a person appointed to the office is required to protect the estate of the deceased, to pay debts and liabilities incurred by the estate and to eventually distribute the estate to the beneficiaries.
- 6.8 At all times, an executor/executrix must act in the best interests of an estate. Where conflict of interest arises or if it is shown that an executor/executrix has acted contrary to section 52(2) of the Act, a Court can remove such person from office.
- 6.9 It is worth stating that since executors/executrices are subject to supervision of this Court under Order 30 Rule 12 (c) of the High court Rules, the Court can make any orders that may be expedient and necessary for meeting the ends of justice and to prevent abuse of the power conferred on such persons by the law.

6.10 In the present case, there is no dispute that the 2<sup>nd</sup> respondent is the widow of the deceased and was appointed as executrix by the deceased. She obtained probate on 7<sup>th</sup> June 2013 with the other executrices. As an executrix, and in her prime position as widow and probably being the oldest member of the family, she bore a duty in concurrence with the other executrices to timely administer the estate of the deceased for the benefit of the beneficiaries.

6.11 What I find is that while the 1<sup>st</sup> applicant adduced evidence through the exhibits marked "MTT1" and "KT3" of her willingness to perform her duties as executrix; the 2<sup>nd</sup> respondent on the other hand only showed that she participated in the drafting of the trust deed document which was overtaken by events. Further, that she paid some of the deceased's burial expenses. By the 2<sup>nd</sup> respondent's admission, her knowledge of the status of the estate was not firsthand but derived from her constant communication with Lucy Tembo and Kalipena Nkhuwa. The Court finds it difficult to appreciate how effective the communication was or essential in winding up the estate.

6.12 I further, find that the 2<sup>nd</sup> respondent for instance did not indicate her position on the Livingstone house, the depreciating properties of the estate or the actual state of the assets. In fact, her reaction can best be described as unwillingness to perform her duty as executrix. In the

Court's opinion, she took no steps to collect or gather the estate and pay debts, which predicated the distribution of the estate. Further, since the actions of winding up of the deceased's estate require physical presence in the country; an executrix cannot purport to bear the burdens of such an office from a distance because the cost would drain the estate. In view of these failings, I am satisfied that the 2<sup>nd</sup> respondent's evidence did not sufficiently demonstrate that she was committed to her duties as executrix.

6.13 I therefore, find that the applicants have raised a legitimate question over the delayed distribution of their deceased father's estate. The 1<sup>st</sup> applicant's evidence that she was unable to perform her duties owing to the unwillingness of her co-executrices is therefore compelling. My consequent holding is that the respondents are hereby removed as co-executrices of the deceased's estate and replaced by the 2<sup>nd</sup> applicant who is ready to take up office.

6.14 The applicants invited the Court to consider the implication of clause 19 of the will in one of the prayers. It reads:

**"I appoint and nominate my wife Linda Tembo to be trustee limited to my World Health Organisation pension benefits payable to my children who shall be minors at the time of my death. In the event that my wife Linda Tembo shall predecease me my World Health Organisation pension benefits or none of my children shall be minors at the time of my death the said benefits shall form part of the residuary estate."**

6.15 My interpretation of the clause is that the 2<sup>nd</sup> respondent was appointed trustee of the deceased's World Health organisation pension benefits solely for the benefit of his minor children. Thus, the mandate depended on there being minor children in the family. After they grew up, the pension benefit reverted to the residuary estate. The applicants' evidence which was not gainsaid by the respondents is that at the time of their father's death, the youngest child was an adult. That being the case, I hold that clause 19 of the will is spent and the World Health Organisation pension benefits belong to the residuary estate of the deceased.

## 7. Final Orders

These are the final orders of this Court:

1. I hereby declare and revoke probate granted to the 1<sup>st</sup> and 2<sup>nd</sup> respondents on 7<sup>th</sup> June 2013 and remove them as executrices of the estate.
2. I appoint Mtukuzi-Tukuza Tembo as the 2<sup>nd</sup> executrix of David Lastone Tembo's estate.
3. I order the sale of subdivision 9 of farm no. 283a Lusaka West and House no. 19 John Hunt Way Livingstone. The proceeds to be shared equally amongst the beneficiaries.

4. The pension benefits of the deceased from the World Health Organisation shall vest in the residuary estate and be shared equally amongst the beneficiaries.
5. The parties will bear their own costs.

Dated this 23<sup>rd</sup> day of March 2020.

*M. Mapani*  
M. Mapani-Kawimbe  
**HIGH COURT JUDGE**